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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,981	11/09/2001	Nicolas John Dougill	18872.0001	7856
7590	01/29/2004		EXAMINER	
Martin G. Linihan Hodgson Russ LLP Suite 2000 One M&T Plaza Buffalo, NY 14203-2391			ROSE, ROBERT A	
			ART UNIT	PAPER NUMBER
			3723	
			DATE MAILED: 01/29/2004	<i>12</i>

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/037,981	Applicant(s) Nicolas et al
Examiner Robert Rose	Art Unit 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Nov 5, 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- Disposition of Claims
- 4) Claim(s) 1-5, 7-11, 19-23, and 25-29 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5, 7, 19-23, and 25 is/are rejected.
- 7) Claim(s) 8-11 and 26-29 is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

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DETAILED ACTION

1. Claims 6, 12-18, 24, and 30-38 have been canceled.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-5, 7, 19-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballinger in view of Dempsey et al. Ballinger discloses a method and apparatus for removing material from a workpiece comprising all of the subject matter of applicant's claims above except for the recitation of means for detecting the load and means for controlling the rate of advancing movement depending upon the magnitude of the load. Note the use of an eccentric mount for oscillating the grinding wheel while it rotates about its central axis. Dempsey et al discloses a control means for a grinding wheel comprising means for detecting the load current of the grinding wheel motor indicative of the load applied to the grinding wheel from the workpiece, and means for controlling the feed motion of the grinding wheel based upon the magnitude of the detected load current. To use this control means in the apparatus and method of Ballinger to prevent overloading of the grinding wheel during machining would have been obvious in view of Dempsey et al.

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4. Claims 8-11, and 26-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed November 5, 2003 have been fully considered but they are not persuasive. Contrary to Applicant's assertion, Dempsey et al is deemed to disclose control of the rate of advancing movement of the abrasive wheel in the sense that the overall advancement of the abrasive wheel through the workpiece is slowed depending upon how often the threshold grinding load is exceeded. It is the examiner's view that Dempsey et al thus teaches this feature of Applicant's independent claims.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication should be directed to Robert Rose at telephone number (703) 308-1360.

rr

January 23, 2004.

ROBERT A. ROSE
PRIMARY EXAMINER
ART UNIT 323

